



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2052

Introduced 2/7/2008, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 220/3.9 new

5 ILCS 420/4A-101

from Ch. 127, par. 604A-101

Creates the Flood Prevention District Act. Provides that a flood prevention district may be created within certain counties for the purpose of performing emergency levee repair, flood prevention, and stormwater control. Provides that the affairs of the district shall be managed by a board of commissioners consisting of 3 commissioners. Sets forth the terms of the commissioners. Sets forth the powers of the district, including the power to issue revenue bonds, the power to impose a retailers' occupation tax within the territory of the district, and the power of eminent domain. Amends the Intergovernmental Cooperation Act. Provides that two or more county flood prevention districts may enter into an intergovernmental agreement. Amends the Illinois Governmental Ethics Act. Provides that members of the board of commissioners of any flood prevention district are required to file a statement of economic interests. Effective immediately.

LRB095 19161 HLH 45394 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Flood
5 Prevention District Act.

6 Section 5. Creation; purpose.

7 (a) Any county served or protected by a federal levee
8 system may be designated as a flood prevention district for the
9 purpose of performing emergency levee repair, flood
10 prevention, and stormwater control in order to prevent the loss
11 of life or property. The county board of any such county may
12 declare an emergency and create a flood prevention district by
13 the affirmative vote of the majority of the members of the
14 county board.

15 (b) Two or more flood prevention districts may join
16 together through an intergovernmental agreement, pursuant to
17 the Intergovernmental Cooperation Act.

18 (c) Any district created under this Act shall be dissolved
19 25 years after the date the district is created or upon the
20 payment of all obligations of the district under Section 20 of
21 this Act, whichever occurs later. A district may be dissolved
22 earlier if all obligations of the district have been paid,
23 including its obligations related to bonds issued under Section

1 20 of this Act and any obligations incurred pursuant to an
2 intergovernmental agreement.

3 Section 10. Commissioners.

4 The affairs of the district shall be managed by a board of
5 3 commissioners who shall be appointed by the chairman of the
6 county board of the county in which the district is situated.
7 All initial appointments under this Section must be made within
8 90 days after the district is organized. Of the initial
9 appointments, one commissioner shall serve for a one-year term,
10 one commissioner shall serve for a 2-year term, and one
11 commissioner shall serve for a 3-year term, as determined by
12 lot. Their successors shall be appointed for 3-year terms. No
13 commissioner may serve for more than 20 years. Each
14 commissioner must be a legal voter in the district.
15 Commissioners shall serve without compensation, but may be
16 reimbursed for reasonable expenses incurred in the performance
17 of their duties.

18 Section 20. Powers of the district. A district formed under
19 this Act shall have the following powers:

20 (1) To sue or be sued.

21 (2) To apply for and accept gifts, grants, and loans
22 from any public agency or private entity.

23 (3) To enter into intergovernmental agreements to
24 further ensure levee repair, levee construction or

1 reconstruction, flood prevention, and stormwater control,
2 including agreements with the United States Army Corps of
3 Engineers or any other agency or department of the federal
4 government.

5 (4) To undertake evaluation, planning, design,
6 construction, and related activities that are determined
7 to be urgently needed to stabilize, repair, restore,
8 improve, or replace existing levees and other flood control
9 systems.

10 (5) To address underseepage problems and old and
11 deteriorating pumps, gates, pipes, electrical controls,
12 and other infrastructure.

13 (6) To conduct urgently needed evaluations of levees
14 and other flood control facilities that protect urban
15 areas, including the performance of floodplain mapping
16 studies.

17 (7) To provide capital moneys for levee or
18 river-related scientific studies, including the
19 construction of facilities for such purposes.

20 (8) To construct stormwater containment facilities and
21 stormwater drainage facilities. If the county in which the
22 district is located has adopted a stormwater management
23 plan pursuant to Section 5-1062, 5-1062.1, or 5-1062.2 of
24 the Counties Code, then such construction shall conform
25 with that stormwater management plan.

26 (9) To borrow money or receive money from the United

1 States Government or any agency thereof, or from any other
2 public or private source, for the purposes of the District.

3 (10) To enter into agreements with private property
4 owners.

5 (11) To issue revenue bonds, payable from revenue
6 received from a retailers' occupation tax imposed under
7 Section 25 of this Act. These bonds may be issued with
8 maturities not exceeding 25 years from the date of the
9 bonds, and in such amounts as may be necessary to provide
10 sufficient funds, together with interest, for the purposes
11 of the District. These bonds shall bear interest at a rate
12 of not more than the maximum rate authorized by the Bond
13 Authorization Act, as amended at the time of the making of
14 the contract of sale, payable semi-annually, may be made
15 registerable as to principal, and may be made payable and
16 callable as provided on any date at a price of par and
17 accrued interest under such terms and conditions as may be
18 fixed by the ordinance authorizing the issuance of the
19 bonds. Bonds issued under this Section are negotiable
20 instruments. In case any officer whose signature appears on
21 the bonds or coupons ceases to hold that office before the
22 bonds are delivered, such officer's signature, shall
23 nevertheless be valid and sufficient for all purposes, the
24 same as though such officer had remained in office until
25 the bonds were delivered. The bonds shall be sold in such
26 manner and upon such terms as the board of commissioners

1 shall determine, except that the selling price shall be
2 such that the interest cost to the District of the proceeds
3 of the bonds shall not exceed the maximum rate authorized
4 by the Bond Authorization Act, as amended at the time of
5 the making of the contract of sale, payable semi-annually,
6 computed to maturity according to the standard table of
7 bond values.

8 (12) To acquire property by gift, grant, or eminent
9 domain, in accordance with the Eminent Domain Act.

10 (13) To retain professional staff to carry out the
11 functions of the District. Any flood prevention district
12 shall employ a Chief Supervisor of Construction and the
13 Works with appropriate professional qualifications,
14 including a degree in engineering, construction,
15 hydrology, or a related field, or an equivalent combination
16 of education and experience. The Chief Supervisor of
17 Construction and the Works shall be vested with the
18 authority to carry out the duties and mission of the Flood
19 Prevention District, pursuant to the direction and
20 supervision of the Board of Commissioners. The Chief
21 Supervisor of Construction and the Works may hire
22 additional staff as necessary to carry out the duties and
23 mission of the district, including administrative support
24 personnel. Two or more districts may, through an
25 intergovernmental agreement, share the services of a Chief
26 Supervisor of Construction and the Works, support staff, or

1 both. If 2 districts are adjoining and share a common
2 federal levee, they must retain the services of the same
3 person as Chief Supervisor of Construction and the Works.

4 Section 25. Retailers' occupation tax.

5 (a) If the Board of a flood prevention district determines
6 that an emergency situation exists regarding levee repair,
7 flood prevention, or stormwater control, and upon the
8 affirmative vote of a majority of the members of the county
9 board of the county in which the district is situated, it may
10 impose a retailers' occupation tax upon all persons engaged in
11 the business of selling tangible personal property at retail
12 within the territory of the district for a period not to exceed
13 25 years or as required to repay the bonds issued pursuant to
14 Section 20 of this Act. The tax rate may not exceed 1/4% of the
15 gross receipts from all taxable sales made in the course of
16 that business. The tax imposed under this Section and all civil
17 penalties that may be assessed as an incident thereof shall be
18 collected and enforced by the State Department of Revenue. The
19 Department shall have full power to administer and enforce this
20 Section; to collect all taxes and penalties so collected in the
21 manner hereinafter provided; and to determine all rights to
22 credit memoranda arising on account of the erroneous payment of
23 tax or penalty hereunder. In the administration of, and
24 compliance with this Section, the Department and persons who
25 are subject to this Section shall have the same rights,

1 remedies, privileges, immunities, powers, and duties, and be
2 subject to the same conditions, restrictions, limitations,
3 penalties, exclusions, exemptions and definitions of terms,
4 and employ the same modes of procedure, as are prescribed in
5 Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65
6 (in respect to all provisions therein other than the State rate
7 of tax), 2c, 3 (except as to the disposition of taxes and
8 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
9 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
10 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
11 Penalty and Interest Act, as fully as if those provisions were
12 set forth herein.

13 Persons subject to any tax imposed under this Section may
14 reimburse themselves for their seller's tax liability
15 hereunder by separately stating the tax as an additional
16 charge, which charge may be stated in combination in a single
17 amount with State taxes that sellers are required to collect
18 under the Use Tax Act, under any bracket schedules the
19 Department may prescribe.

20 If a tax is imposed under this subsection (a), a tax shall
21 also be imposed under subsection (b) of this Section.

22 (b) If a tax has been imposed under subsection (a), a
23 service occupation tax shall also be imposed upon all persons
24 within the territory of the district engaged in the business of
25 making sales of service, who, as an incident to making the
26 sales of service, transfer tangible personal property within

1 the territory of the district, either in the form of tangible
2 personal property or in the form of real estate as an incident
3 to a sale of service. The tax rate shall not exceed 1/4% of the
4 selling price of all tangible personal property transferred.

5 The tax imposed under this subsection and all civil
6 penalties that may be assessed as an incident thereof shall be
7 collected and enforced by the State Department of Revenue. The
8 Department shall have full power to administer and enforce this
9 subsection; to collect all taxes and penalties due hereunder;
10 to dispose of taxes and penalties collected in the manner
11 hereinafter provided; and to determine all rights to credit
12 memoranda arising on account of the erroneous payment of tax or
13 penalty hereunder. In the administration of and compliance with
14 this paragraph, the Department and persons who are subject to
15 this paragraph shall have the same rights, remedies,
16 privileges, immunities, powers and duties, and be subject to
17 the same conditions, restrictions, limitations, penalties,
18 exclusions, exemptions and definitions of terms, and employ the
19 same modes of procedure, as are prescribed in Sections 1a-1, 2,
20 2a, 3 through 3-50 (in respect to all provisions therein other
21 than the State rate of tax), 4 , 5, 7, 8, 9 (except as to the
22 disposition of taxes and penalties collected, and except that
23 the returned merchandise credit for this tax may not be taken
24 against any State tax), 10, 11, 12 (except the reference
25 therein to Section 2b of the Retailers' Occupation Tax Act),
26 13, the first paragraph of Section 15, 16, 17, 18, 19 and 20 of

1 the Service Occupation Tax Act and Section 3-7 of the Uniform
2 Penalty and Interest Act, as fully as if those provisions were
3 set forth herein.

4 Persons subject to any tax imposed under the authority
5 granted in this subsection may reimburse themselves for their
6 serviceman's tax liability hereunder by separately stating the
7 tax as an additional charge, that charge may be stated in
8 combination in a single amount with State tax that servicemen
9 are authorized to collect under the Service Use Tax Act, under
10 any bracket schedules the Department may prescribe.

11 (c) Motor vehicles, as defined in Section 1-146 of the
12 Illinois Vehicle Code, food for human consumption,
13 prescription and nonprescription medicines, drugs, and medical
14 appliances are exempt from any tax imposed under this Act.

15 (d) Nothing in this Section shall be construed to authorize
16 the district to impose a tax upon the privilege of engaging in
17 any business that under the Constitution of the United States
18 may not be made the subject of taxation by the State.

19 Section 30. Disbursement of federal funds.

20 (a) Any reimbursements for the construction of flood
21 protection facilities or stormwater control, containment, or
22 drainage facilities shall be appropriated to each county flood
23 prevention district in accordance with the location of the
24 specific facility for which the federal appropriation is made.

25 (b) If there are federal reimbursements to a county flood

1 prevention district for construction of flood protection
2 facilities that were built using revenues authorized by this
3 Act, those funds may be used for any of the following purposes:

4 (1) Design and construction of additional flood
5 prevention and stormwater management facilities located in
6 the district. If the county in which the district is
7 located has adopted a stormwater management plan pursuant
8 to Section 5-1062, 5-1062.1, or 5-1062.2 of the Counties
9 Code, then such design and construction shall conform with
10 that stormwater management plan.

11 (2) Early retirement of bonds issued in accordance with
12 this Act.

13 Section 60. The Intergovernmental Cooperation Act is
14 amended by adding Section 3.9 as follows:

15 (5 ILCS 220/3.9 new)

16 Sec. 3.9. Flood prevention. Two or more county flood
17 prevention districts may enter into an intergovernmental
18 agreement to provide any services authorized in the Flood
19 Prevention District Act.

20 Section 70. The Illinois Governmental Ethics Act is amended
21 by changing Section 4A-101 as follows:

22 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

1 Sec. 4A-101. Persons required to file. The following
2 persons shall file verified written statements of economic
3 interests, as provided in this Article:

4 (a) Members of the General Assembly and candidates for
5 nomination or election to the General Assembly.

6 (b) Persons holding an elected office in the Executive
7 Branch of this State, and candidates for nomination or
8 election to these offices.

9 (c) Members of a Commission or Board created by the
10 Illinois Constitution, and candidates for nomination or
11 election to such Commission or Board.

12 (d) Persons whose appointment to office is subject to
13 confirmation by the Senate.

14 (e) Holders of, and candidates for nomination or
15 election to, the office of judge or associate judge of the
16 Circuit Court and the office of judge of the Appellate or
17 Supreme Court.

18 (f) Persons who are employed by any branch, agency,
19 authority or board of the government of this State,
20 including but not limited to, the Illinois State Toll
21 Highway Authority, the Illinois Housing Development
22 Authority, the Illinois Community College Board, and
23 institutions under the jurisdiction of the Board of
24 Trustees of the University of Illinois, Board of Trustees
25 of Southern Illinois University, Board of Trustees of
26 Chicago State University, Board of Trustees of Eastern

1 Illinois University, Board of Trustees of Governor's State
2 University, Board of Trustees of Illinois State
3 University, Board of Trustees of Northeastern Illinois
4 University, Board of Trustees of Northern Illinois
5 University, Board of Trustees of Western Illinois
6 University, or Board of Trustees of the Illinois
7 Mathematics and Science Academy, and are compensated for
8 services as employees and not as independent contractors
9 and who:

10 (1) are, or function as, the head of a department,
11 commission, board, division, bureau, authority or
12 other administrative unit within the government of
13 this State, or who exercise similar authority within
14 the government of this State;

15 (2) have direct supervisory authority over, or
16 direct responsibility for the formulation,
17 negotiation, issuance or execution of contracts
18 entered into by the State in the amount of \$5,000 or
19 more;

20 (3) have authority for the issuance or
21 promulgation of rules and regulations within areas
22 under the authority of the State;

23 (4) have authority for the approval of
24 professional licenses;

25 (5) have responsibility with respect to the
26 financial inspection of regulated nongovernmental

1 entities;

2 (6) adjudicate, arbitrate, or decide any judicial
3 or administrative proceeding, or review the
4 adjudication, arbitration or decision of any judicial
5 or administrative proceeding within the authority of
6 the State;

7 (7) have supervisory responsibility for 20 or more
8 employees of the State; or

9 (8) negotiate, assign, authorize, or grant naming
10 rights or sponsorship rights regarding any property or
11 asset of the State, whether real, personal, tangible,
12 or intangible.

13 (g) Persons who are elected to office in a unit of
14 local government, and candidates for nomination or
15 election to that office, including regional
16 superintendents of school districts.

17 (h) Persons appointed to the governing board of a unit
18 of local government, or of a special district, and persons
19 appointed to a zoning board, or zoning board of appeals, or
20 to a regional, county, or municipal plan commission, or to
21 a board of review of any county, and persons appointed to
22 the Board of the Metropolitan Pier and Exposition Authority
23 and any Trustee appointed under Section 22 of the
24 Metropolitan Pier and Exposition Authority Act, and
25 persons appointed to a board or commission of a unit of
26 local government who have authority to authorize the

1 expenditure of public funds. This subsection does not apply
2 to members of boards or commissions who function in an
3 advisory capacity.

4 (i) Persons who are employed by a unit of local
5 government and are compensated for services as employees
6 and not as independent contractors and who:

7 (1) are, or function as, the head of a department,
8 division, bureau, authority or other administrative
9 unit within the unit of local government, or who
10 exercise similar authority within the unit of local
11 government;

12 (2) have direct supervisory authority over, or
13 direct responsibility for the formulation,
14 negotiation, issuance or execution of contracts
15 entered into by the unit of local government in the
16 amount of \$1,000 or greater;

17 (3) have authority to approve licenses and permits
18 by the unit of local government; this item does not
19 include employees who function in a ministerial
20 capacity;

21 (4) adjudicate, arbitrate, or decide any judicial
22 or administrative proceeding, or review the
23 adjudication, arbitration or decision of any judicial
24 or administrative proceeding within the authority of
25 the unit of local government;

26 (5) have authority to issue or promulgate rules and

1 regulations within areas under the authority of the
2 unit of local government; or

3 (6) have supervisory responsibility for 20 or more
4 employees of the unit of local government.

5 (j) Persons on the Board of Trustees of the Illinois
6 Mathematics and Science Academy.

7 (k) Persons employed by a school district in positions
8 that require that person to hold an administrative or a
9 chief school business official endorsement.

10 (l) Special government agents. A "special government
11 agent" is a person who is directed, retained, designated,
12 appointed, or employed, with or without compensation, by or
13 on behalf of a statewide executive branch constitutional
14 officer to make an ex parte communication under Section
15 5-50 of the State Officials and Employees Ethics Act or
16 Section 5-165 of the Illinois Administrative Procedure
17 Act.

18 (m) Members of the board of commissioners of any flood
19 prevention district.

20 This Section shall not be construed to prevent any unit of
21 local government from enacting financial disclosure
22 requirements that mandate more information than required by
23 this Act.

24 (Source: P.A. 93-617, eff. 12-9-03; 93-816, eff. 7-27-04.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.